

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

In Re: SOUTHERN MARINE
TOWING & SALVAGE, INC.
d/b/a TOW BOAT U.S.
NAPLES/MARCO ISLAND,

Case No. 2:21-cv-137-SPC-NPM
IN ADMIRALTY

Petitioner.

**ORDER APPROVING AD INTERIM STIPULATION OF VALUE,
AND DIRECTING ISSUANCE OF
LIMITATION INJUNCTION AND NOTICE**

A Complaint and Petition having been filed herein on February 19, 2021, by SOUTHERN MARINE TOWING & SALVAGE, INC. d/b/a TOW BOAT U.S. NAPLES/MARCO ISLAND, and its stockholders, as owners and/or owners *pro hac vice* of a 1995 26 foot Dusky, Hull Identification Number (HIN) DUS55262L495, FL Registration No. FL-3619-JM, including her engines, gear, tackle, appurtenances, equipment, furniture, etc., (hereinafter “the Vessel”), for exoneration from and/or limitation of liability as provided for in the Act of Congress embodied in 46 U.S.C. §§ 30501 et seq. and pursuant to Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, together with the statutes supplemental thereto and amendatory thereof, and also contesting its liability independently of the limitation of liability claims under said Acts, Treaty or Code for any loss,

damages, deaths, personal injuries, damage or destruction of property or other occurrences arising from the towing operation and incident which occurred on or about **December 7, 2020**, on the navigable waterways of the United States as further described in the Complaint and Petition, and said complaint also stating the alleged facts and circumstances on which such exoneration from or limitation of liability is claimed;

And Petitioners having deposited with the Court as security for the benefit of Claims, an Ad Interim Stipulation of Value not less than or equal to the amount or value of its interest in the Vessel, as required by the rules of this Court and by the law;

IT IS ORDERED AND ADJUDGED that the Ad Interim Stipulation for the value of Petitioners' interest in the Vessel, for no more than the amount of \$100.00, including costs of court and interest at the rate of six percent (6%) per annum from date hereof, and filed herein by Petitioners, be accepted as Ad Interim Stipulation for the purpose of this action and that it be approved as to form and quantum.

IT IS FURTHER ORDERED AND ADJUDGED that Petitioners and any Claimant who may properly become a party hereto may contest the amount of value of Petitioners' interest in the Vessel as fixed in said Ad Interim Stipulation for Value, subject to such increases or decreases in the amount of such

Stipulation, together with adequate security, as the Court may from time to time order according to the rules and practices of this Court may adjudge.

IT IS FURTHER ORDERED AND ADJUDGED that if the amount of the Ad Interim Stipulation is not contested by any Claimant herein, said Stipulation shall stand as a Stipulation for Value and an appraisal by a Commissioner will not be required.

NOW, THEREFORE, it is ordered that a Limitation Injunction and Notice issue out of and under the seal of this Court against all persons or corporations claiming damage for any and all loss, destruction, damage, injuries, and/or death allegedly as a result of the occurrences and happenings recited in the Complaint and Petition, to file their respective claims with the Clerk of this Court and to serve on or mail to the attorneys for Petitioners copies thereof on or before **April 22, 2021**, and that all persons or corporations so presenting claims and desiring to contest the allegations of the Complaint and Petition shall file an answer to the Complaint and Petition in this Court and shall serve on or mail to the attorneys for the Petitioners copies thereof, or be defaulted.

IT IS FURTHER ORDERED that a public notice of said Limitation Injunction and Notice be given by publication as required by Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court

for the Middle District of Florida, once each week for four successive weeks in **“The News-Press”** prior to the date fixed for the filing of claims in accordance with Supplemental Rule F and that not later than the date of the second weekly publication, a copy of said notice be mailed by Petitioners to every person or corporation known by the Petitioners to potentially have a claim against Petitioners arising out of the accident set forth in the Complaint and Petition.

IT IS FURTHER ORDERED that the commencement or further prosecution of any action, suit or proceeding in any court whatsoever, and the institution and prosecution of any suits, actions or legal proceedings, of any nature or description whatsoever, in any court whatsoever, except in these proceedings, in respect to any claim arising out of, or connected with the casualty set forth in the Complaint and Petition herein, be and the same are hereby STAYED AND RESTRAINED until the final determination of this proceeding.

IT IS FINALLY ORDERED that the service of this Order as a restraining order in this District may be made in the usual manner as any other district of the United States by delivery by the Marshal of the United States for such District of a certified copy of this Order on the person or persons to be restrained or to their respective attorneys, or alternatively, by mailing a conformed copy of it to the person or persons to be restrained or to their respective attorney.

DONE and **ORDERED** in Fort Myers, Florida on February 25, 2021.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE